

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150614
Respondent-Appellee,	:	TRIAL NOS. B-1207436B B-1208349
vs.	:	<i>JUDGMENT ENTRY.</i>
AHMAD SHALASH,	:	
Petitioner-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Petitioner-appellant Ahmad Shalash appeals from the Hamilton County Common Pleas Court’s judgment denying his postconviction petition. We affirm the court’s judgment.

Shalash was convicted in 2013 upon jury verdicts finding him guilty on multiple counts of aggravated robbery and robbery for his part in a series of bank robberies. He unsuccessfully challenged his convictions in his direct appeal to this court and in a petition under R.C. 2953.21 for postconviction relief, filed with the common pleas court in 2014. See *State v. Shalash*, 1st Dist. Hamilton Nos. C-130748 and C-130749, 2014-Ohio-5006, *appeal not accepted*, 142 Ohio St.3d 1517, 2015-Ohio-2341, 33 N.E.3d 65. In this appeal, he presents a single assignment of error, challenging the denial of his postconviction petition without a hearing. We find no merit to this challenge.

In his petition, Shalash sought relief from his convictions on the grounds that he was actually innocent, that his trial counsel had been ineffective in investigating his case, and that the prosecution had engaged in misconduct in convincing his two co-indictees to testify against him. He supported his actual-innocence and prosecutorial-misconduct claims with affidavits of his co-indictees, recanting their trial testimony implicating him in the robberies. And he supported his ineffective-counsel claim with a copy of his letter to his postconviction counsel detailing his trial counsel's alleged deficiencies.

The petition and its supporting evidence, along with the record of the proceedings leading to Shalash's convictions, did not demonstrate substantive grounds for postconviction relief. *See* R.C. 2953.21(C). A claim of actual innocence based on evidence outside the trial record does not provide a ground for relief, because such a claim does not demonstrate a constitutional violation in the proceedings leading to the petitioner's conviction. *See* R.C. 2953.21(A)(1)(a); *State v. Powell*, 90 Ohio App.3d 260, 264, 629 N.E.2d 13 (1st Dist.1993). Shalash's claim that the prosecution had suborned and elicited perjured testimony from his co-indictees failed in its central premise, because the common pleas court could not be said to have abused its discretion in discounting the credibility of their affidavits, *see State v. Calhoun*, 86 Ohio St.3d 279, 284-285, 714 N.E.2d 905 (1999), and, thus, their trial testimony was not demonstrated to have been false. *See State v. Iacona*, 93 Ohio St.3d 83, 97, 752 N.E.2d 937 (2001). Finally, the evidence offered by Shalash in support of his ineffective-counsel claim did not demonstrate a reasonable probability that, but for his trial counsel's alleged deficiencies, the results of Shalash's trial would have been different. *See Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052 (1984); *State v. Bradley*, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989).

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Because Shalash failed to sustain his burden of submitting evidentiary material setting forth sufficient operative facts to demonstrate substantive grounds for relief, the common pleas court properly denied his postconviction petition without an evidentiary hearing. *See* R.C. 2953.21(C); *State v. Pankey*, 68 Ohio St.2d 58, 428 N.E.2d 413 (1981); *State v. Jackson*, 64 Ohio St.2d 107, 413 N.E.2d 819 (1980). We, therefore, overrule the assignment of error and affirm the court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

FISCHER, P.J., HENDON and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on October 7, 2016
per order of the court. _____.

Presiding Judge